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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/551,256	04/18/2000	Steven P. Georgis	19930-000200US	1759

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EXAMINER

SMITH, ZANDRA V

ART UNIT PAPER NUMBER

2877

DATE MAILED: 05/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/551,256

Applicant(s)

GEORGIS ET AL

Examiner

Zandra V. Smith

Art Unit

2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-31 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1, 4, 5, 8-12 and 14-29 is/are allowed.
- 6) ☒ Claim(s) 3, 6, 7, 13, 30 and 31 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6) ☐ Other

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 6-7, 13, and 30-31 rejected under 35 U.S.C. 103(a) as being unpatentable over *Xu et al. (6,404,492)*, in view of *Derickson et al. (5,796,479)*.

As to **claims 3 and 30**, Xu discloses a light source apparatus and measurement method comprising,

during a first time interval, separating a first spectral band of a plurality of spectral bands;

directing the first spectral band to a photodetector while preventing the spectral bands in the plurality of spectral bands other than the first spectral band from reaching the photodetector; and

generating with a wavelength monitoring circuit a first signal representing a characteristic of a modulated or un-modulated pattern of light in the spectral band; and

repeating the steps during a second and subsequent time interval(s) (col. 5, lines 1-20, lines 27-31, col. 6, lines 40-45, and col. 7, lines 20-25).

As to the particular quality characteristics, Xu fails to disclose the determination of the characteristics, however to do so is well known as taught by Derickson. Derickson discloses a signal monitor in a wavelength division multiplexing system that monitors the signal-to-noise ratio in each wavelength signal (col. 3, lines 15-25). It would have been obvious to one having

Art Unit 2877

ordinary skill in the art at the time of invention to monitor the signal-to-noise ratio to ensure that the wavelengths equally illuminate the object.

As to **claim 6**, Xu discloses a light source apparatus and measurement method, comprising,

an optical train;

a photodetector;

a routing mechanism;

an electrical circuit coupled to the photodetector; and

an a control circuit coupled to the routing mechanism to cause only a first selected spectral band to be directed to the photodetector during a first time interval and to cause only a second spectral band to be directed to the photodetector during a second time interval (col. 5, lines 1-20, lines 27-31, col. 6, lines 40-45, and col. 7, lines 20-25).

As to the particular quality characteristics, Xu fails to disclose the determination of the characteristics, however to do so is well known as taught by Derickson. Derickson discloses a signal monitor in a wavelength division multiplexing system that monitors the signal-to-noise ratio in each wavelength signal (col. 3, lines 15-25). It would have been obvious to one having ordinary skill in the art at the time of invention to monitor the signal-to-noise ratio to ensure that the wavelengths equally illuminate the object.

As to **claims 7 and 31**, Xu and Derickson disclose everything claimed, as applied above, in addition the signals represent optical power levels (col. 7, lines 20-25).

As to **claim 13**, Xu and Derickson disclose everything claimed, as applied above, in addition the optical train includes a dispersive element (4, col. 5, line 28).

Allowable Subject Matter

Claims 1, 4-5, 8-12, and 14-29 are allowed

The following is a statement of reasons for the indication of allowable subject matter. The prior art of record, taken alone or in combination, fails to disclose or render obvious generating, during a first time interval a signal representing the combined optical power of the spectral bands other than the first spectral band, SONET frames, a plurality of dynamically routing elements controlled to direct the spectral bands during specified time periods.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit 2877

Response to Arguments


Applicant's arguments with respect to claims 3, 6-7, 13 and 30 have been considered but are moot in view of the new ground(s) of rejection.

Fax/Telephone Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zandra V. Smith whose telephone number is (703) 305-7776. The examiner can normally be reached on 8:00 a.m. - 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G. Font can be reached on (703)308-4881. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-0530.


Zandra V. Smith
Primary Examiner
Art Unit 2877

May 19, 2003